

Applicants : Robert A. De Jonge et al.
Appln. No. : 10/820,424
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Amendments to the Drawings:

The attached sheet of drawings includes changes to Fig. 2. This sheet, which includes Fig. 2, replaces the original sheet including Fig. 2. In Fig. 2, elements 26A, 81, 82 and 83 have been added.

Attachment: Replacement Sheet

REMARKS

Reconsideration of the application as amended is requested.

In the Office Action dated January 17, 2007, the drawings were objected to under 37 C.F.R. §1.83(a).

With respect to the "first member" of claims 1 and 3, an example of this part is the pin 41 shown in Fig. 5 and described at paragraphs [0056] and [0057] of the application as filed. An example of the "pawl member" of claim 1 is the pawl 15A of Fig. 5 (paragraph [0057] has been amended to correct a typographical error and now consistently recites "pawl 15A").

The "movable input member" has been deleted from claims 26 and 27, and replaced with "sensor". One example of a sensor is the sensor 253 shown in Fig. 33 and described at paragraph [0096] of the present application as filed.

An example of the "movable member" of claim 57 is the push button 16 of Fig. 2 as described at paragraph [0062] of the application as filed. An example of the "engagement member" of claims 68, 90, 93, 94 and 118 is the pawl 15A of Fig. 5 as described at paragraphs [0056] and [0057]. A main vehicle electric power supply 26A has been added to Fig. 2, and the specification has been amended accordingly. The main power supply (i.e. battery) was described in the application as filed, such that the amendments to Fig. 2 are not believed to include any new matter.

With respect to the three distinct pawl positions, claim 146 does not recite any such feature, such that Applicants are unsure what claim feature is being objected to. Nevertheless, Applicants note that numerous distinct pawl positions are illustrated in Fig. 10, and described at paragraph [0062] of the application as filed.

With respect to the "portable device" of claim 150, this feature has been added to Fig. 2 by amendment, and paragraph [0082] of the specification has been amended to correspond to the amendments to Fig. 2. The portable device, signals, transmitter/receiver were described in the specification as filed at paragraph [0082], such that no new matter is believed to be added by the amendments to Fig. 2.

The specification was objected under 37 C.F.R. §1.75(d)(1).

With respect to the "first member" of claims 1 and 3, as discussed above, an example of a first member is the pin 41 shown in Fig. 5 of the application as filed.

With respect to the "switch" of claim 4, "electrical switch" has been replaced with "manually movable input member". An example of such a feature is the push button 16 shown in Figs. 2 and 3.

With respect to the movable input member of claims 26-29 and 57, Applicants believe that these features are now clear in view of the discussion above in connection with the objection to the drawings and the amendments to claims 26 and 27.

With respect to the "engagement member" of claims 68, 90, 93, 94 and 118, Applicants believe that this feature is now also clear in view of the discussion of the pin 41 and pawl 15A as shown in Fig. 5 of the present application and described at paragraphs [0056] and [0057].

Claims 28, 29, 57, 82-84, 87, 139-149 and 150-153 were rejected under 35 U.S.C. §112, first paragraph, as "failing to comply with the enablement requirement."

With respect to claims 28, 29 and 57, as stated at paragraph [0062] of the present application,

The controller 20 could be programmed to only require a single push ("click") of the button 16 for shifting from PARK to REVERSE, but could require that the button 16 be pushed a second time within a small time interval to actuate pawl 14 and shift from REVERSE to PARK to thereby prevent inadvertent shifting into PARK.

At paragraph [0062], the present application also states that,

Controller 20 may be programmed to control the distance pawl 15 travels based, at least in part, upon the number of times button 16 is depressed. For example pawl 15 could retract to position "C" if button 16 is depressed once, to position E if depressed twice, to position F if depressed three times, and to position G if depressed four times.

Applicants respectfully assert that the present application does provide an enabling disclosure with respect to controlling the powered pawl based upon the number of times that an input member is moved during a predetermined time interval.

With respect to claims 82-84 and 87, the present application at paragraph [0047] incorporates by reference U.S. Patent Application No. 10/762,837 entitled SOLENOID WITH

NOISE REDUCTION. This application describes the arrangement of claims 82-84 and 87 in detail, such that the enablement requirement is believed to be met.

With respect to claim 139, Applicants note that three distinct positions are shown in Fig. 10 of the present application, such that claim 139 is believed to be enabled.

With respect to the portable device of claim 150, as described at paragraph [0082] of the present application as filed, the portable device may be a key fob that generates a security signal. Such transmitters/key fobs have been used in the past to provide a "keyless" ignition for vehicles. Thus, by themselves, such portable devices are known. Also, receivers that receive signals from such portable devices for controlling vehicle ignition systems are also known. Because these devices are known, use of such devices to control a powered pawl is believed to be enabled by the present application.

Claims 3, 28, 81, 143 and 144 were rejected under 35 U.S.C. §112, second paragraph, as being indefinite.

With respect to claim 3, a rotatable pawl member 103 is shown in Figs. 19 and 20, and described at paragraph [0080]. Although claim 1 may include the arrangement of both Figs. 5, 19 and 20, claim 3 is limited to the arrangement of Figs. 19 and 20. The "first member" of claim 3 could be connecting rod 102 (Figs. 19 and 20), and the pawl member may comprise a roller 103 that is resiliently connected to rod 102 by spring 105. In view of the specification, claim 3 is believed to be clear and definite, thereby meeting the requirements of §112, second paragraph.

With respect to claim 28, "controllers" has been replaced with "controller" to correct a typographical error.

"Ring-like" has been deleted from claim 81. Claim 81 now recites that "the magnet is ring shaped with generally parallel side faces", and is now therefore believed to be clear and definite.

Claims 143 and 144 have been amended to depend from claim 141 to correct the antecedent basis matter noted by the Examiner.

Claims 1-6, 14, 15, 20-23, 26-30, 35-37, 51-57, 59, 75-79, 85, 90-94, 110-114, 117-123, 139-145 and 148-153 were rejected under 35 U.S.C. §102(e) as being anticipated by

Russell U.S. Patent Publication No. 2004/0244524. Claim 7 was rejected under 35 U.S.C. §103(a) as being unpatentable over Russell '524 in view of Ruiter U.S. Patent No. 5,220,984. Claims 12, 19 and 58 were rejected under 35 U.S.C. §103(a) as being unpatentable over Russell '524 in view of Kito U.S. Patent No. 4,947,967. Claim 24 was rejected under 35 U.S.C. §103(a) as being unpatentable over Russell '524 in view of Kato U.S. Patent No. 6,679,809. Claims 25, 146 and 147 were rejected under 35 U.S.C. §103(a) as being unpatentable over Russell '524 in view of Durieux U.S. Patent No. 6,059,687. Claims 31-33, 86-89, 115 and 116 were rejected under 35 U.S.C. §103(a) as being unpatentable over Russell '524 in view of Rossetti U.S. Patent No. 5,387,892. Claims 60 and 62-69 were rejected under 35 U.S.C. §103(a) as being unpatentable over Russell '524 in view of Kito '967. Claims 80-84 were rejected under 35 U.S.C. §103(a) as being unpatentable over Russell '524 in view of Rossetti '892.

Claims 14, 15, 19-22 and 75-79 have been deleted, such that the rejection of these claims is now believed to be moot.

Claim 1 recites a shifter assembly including a powered pawl mechanism having a movable pawl including a first member and a pawl member resiliently connected to the first member. As discussed at paragraph [0057] of the present application and shown in Fig. 5, a resilient pad 43 provides for movement of pawl 15A (i.e., pawl member) and pin 41 (i.e., first member) such that a force applied to the shift lever 10 is primarily transmitted to pawl 15A and then into base 2, rather than into solenoid 12. In contrast, the pawl 54 of Russell '524 is connected to the pin 90 via pivoting links 58 and 60.

With respect to the potential resiliency or elasticity of the links 58 and 60 of Russell '524, Applicants appreciate that claims are broadly construed during prosecution. However, even during prosecution claim terms cannot be contorted without bound in an unreasonable manner: "The broadest reasonable interpretation of the claims must also be consistent with the interpretation that those skilled in the art would reach." MPEP 2111 (emphasis added). MPEP 2111.01(I) states that "words of the claim must be given their plain meaning unless applicant has provided a clear definition in the specification." Furthermore "'plain meaning' refers to the ordinary and customary meaning given to the term by those of ordinary skill in the

art." MPEP 2111.01(II). Applicants respectfully assert that Russell '524 does not disclose or suggest the arrangement of claim 1 when the terms of claim 1 are properly construed according to their plain meaning.

Claims 2-7 and 12 depend from claim 1, and are therefore believed to be allowable for those reasons set forth above in connection with claim 1.

As noted above, claims 19-22 have been deleted. Claim 23 has been rewritten in independent form. Claim 23 has also been amended to recite that the controller actuates the powered pawl based at least in part on a vehicle operating parameter other than a vehicle ignition and a position of a vehicle brake pedal. Applicants respectfully submit that neither Russell '524 nor the other cited references disclosed or suggested such an arrangement. With respect to Kato '809, Applicants note that actuator 6 "guides the shift knob 4 not into its actually selected position but into an acceptable or expected position according to the transmission signal d and engine revolution speed signal e (step S-11) and then proceeds to step S-9 where the shift knob 4 is shifted into a new shift position." Column 3, line 67-column 4, line 4. Applicants respectfully assert that this is much different than a powered pawl that selectively engages a shift gate to restrict movement of a shift member as recited in amended claim 23. The actuator 6 of Kato '809 moves the shift knob 4, and there is no teaching or suggestion in the cited references to replace the pawl of Russell '524 with such an actuator. Substantial modifications to the cited references would be required to provide such an arrangement, and the references themselves do not teach or suggest any such modifications.

Claims 24-29 depend from claim 23, and are therefore believed to be allowable for those reasons set forth above in connection with claim 23.

Independent claim 30 recites a shifter including a pawl mechanism having a solenoid including a magnet that biases a movable member of the solenoid into a rest position. In contrast, Russell '524 discloses a spring 98 that biases the links 58 and 60. As the Examiner is no doubt aware, "Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, *arranged as in the claim.*" *Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co.*, 221 USPQ 481, 485 (Fed. Cir. 1984) (emphasis added). Applicants respectfully assert that Russell '524 does not disclose a

magnet as recited in claim 30, such that Russell '524 cannot anticipate claim 30. Furthermore, Applicants can find no teaching or suggestion in the references themselves to eliminate the spring 98 of Russell '524 and replace it with a magnet.

Claims 31-33 and 35-37 depend from claim 30, and are therefore believed to be allowable for those reasons set forth above in connection with independent claim 30.

Furthermore, with respect to claim 31, Applicants note that Rossetti '892 teaches that "in operation, the plunger 13 is normally held in the retracted position by the forces brought about by the magnetic field induced by the permanent magnet 6, against the bias of the spring 15." Column 3, lines 1-5 (emphasis added). In contrast, claim 31 recites a spring biasing the movable member into the rest position (claim 30 recites a magnet biasing the movable member into the rest position). Thus, both the spring and the magnet of claim 31 bias the movable member into a rest position. This is directly contrary to Rossetti '892, which teaches a magnet that works against the bias of spring 15.

Still further, with respect to claim 33, claim 33 recites a spring that is configured such that it does not bias the movable member throughout at least a portion of the range of motion. This aspect of the present invention is described in more detail in U.S. Patent Application No. 10/762,837 entitled SOLENOID WITH NOISE REDUCTION. Applicants have reviewed Rossetti '892, and can find no teaching or suggestion for such an arrangement. Specifically, in both Figs. 1 and 2 (i.e., retracted and extended positions, respectively) the spring 15 of Rossetti '892 biases the plunger 13 towards the retracted position. Thus, Rossetti '892 appears to disclose a spring 15 that biases a plunger 13 throughout an entire range of motion. Accordingly, Applicants assert that claim 33 cannot possibly be anticipated by any combination of Russell '524 and Rossetti '892.

With respect to independent claim 51, Applicants respectfully assert that Russell '524 does not disclose a controller configured to control a powered pawl mechanism based at least in part upon at least one vehicle operating parameter other than the position of a brake pedal and a vehicle ignition. With reference to Fig. 8 of Russell '524, Russell '524 discloses use of ignition switch and brake switch position to control the solenoid. Thus, the teachings of Russell '524 are actually directly contrary to the arrangement of claim 51. Also, as discussed

above, the actuator 6 of Kato '809 moves a shift knob 4 to an "acceptable or expected position". Clearly, the actuator 6 of Kato '809 is not a pawl mechanism, and the references themselves do not teach or suggest replacing the pawl of Russell '524 with an actuator as taught by Kato '809. Applicants note that "It is impermissible within the framework of §103 to pick and choose from any one reference only so much of it as will support a given position, to the exclusion of other parts necessary to the full appreciation of what such reference fairly suggests to one of ordinary skill in the art." *In re Wesslau*, 353 F.2d 238, 241, 147 USPQ 391, 393 (CCPA 1965); see also *In re Mercer*, 515 F.2d 1161, 1165-66, 185 USPQ 774, 778 (CCPA 1975). It is therefore improper to select one aspect of Kato '809 and Russell '524 while ignoring the other parts of these references.

Claims 52-59 depend from claim 51, and are therefore believed to be allowable for those reasons set forth above in connection with independent claim 51.

Furthermore, claim 57 recites that controller controls the powered pawl based at least in part on the number of times a movable member is shifted between first and second positions. As described at paragraph [0062] of the present application, the powered pawl of the present shifter may be controlled based upon the number of times push button 16 is pushed within a preselected time period. Applicants respectfully assert that the cited references do not disclose or suggest any such arrangement.

Claim 58 has been amended to depend from claim 55, and recites a release mechanism permitting an operator to manually control the powered pawl mechanism when the button is in a rest position. In contrast, Kito et al. '967 only provides for manual release (movement of lock member 11) if push button 8 is depressed. Accordingly, claim 58 cannot be anticipated by any combination of Kito et al. '967 and Russell '524.

Claim 60 has been amended to recite a shifter including a manually operable member on a shift member that is movable between a rest position and an actuating position. The shifter includes a manually operable release mechanism adapted to shift the pawl out of an engaged position without a supply of electrical power when the manually operable member is in the actuating position. As discussed above, Kito et al. '967 appears to require that the push button 8 be depressed in order to operate manual release member 33. Accordingly, claim 60 is

not believed to be disclosed or suggested by any combination of Russell '524 and Kito et al. '967.

Claims 62-69 depend from claim 60, and are therefore believed to be allowable for those reasons set forth above in connection with claim 60.

Claim 80 recites a shifter for vehicles including a powered pawl having a solenoid with a housing and a rod movably mounted within the housing. The rod includes a magnet, wherein the magnet is encapsulated by a resilient material to form an integral damper to reduce noise.

The Office Action states that "everything is a polymer, 'made of natural or synthetic compounds' (Webster's II New Riverside University Dictionary)". Applicants are puzzled by the assertion that "everything is a polymer". Applicants have enclosed a copy of the relevant portion of Webster's II New Riverside University Dictionary (Appendix A) which defines a polymer as "any of numerous natural and synthetic compounds of usually high molecular weight composed of up to millions of repeated linked units, each a relatively light and simple molecule." Thus, Webster's does not state that "everything is a polymer". Rather, a polymer includes "repeated linked units".

As noted above "Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, *arranged as in the claim.*" *Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co.*, 221 USPQ 481, 485 (Fed. Cir. 1984) (emphasis added).

Claim 80 recites "a solenoid having a housing and a rod movably mounted within the housing, the rod including a magnet". The magnet 6 of Rossetti '892 is stationary relative to the shroud 2, such that it cannot be part of a rod that is movably mounted within a housing as recited in claim 80. Restated, the plunger 13 of Rossetti '892 does not include a magnet.

Applicants reiterate that "words of the claim must be given their plain meaning unless applicant has provided a clear definition in the specification." MPEP 2111.01(II). This requirement set forth in the MPEP is not merely a suggestion; words of a claim must be given their plain meaning during examination. Clearly, Rossetti '892 does not disclose a magnet that is "encapsulated by a resilient material to form an integral damper to reduce noise" as recited in claim 80.

Still further, claim 80 recites "an integral damper *to reduce noise*" (emphasis added). Applicants point out that "A functional limitation must be evaluated and considered, just like any other limitation of the claim, for what it fairly conveys to a person of ordinary skill in the pertinent art in the context in which it is used." MPEP 2173.05(g). Rossetti '892 does not disclose any such feature such that no combination of Russell '524 and Rossetti '892 can possibly anticipate claim 80 for this reason as well as those set forth above.

Claims 81-84 depend from claim 80, and are therefore believed to be allowable for those reasons set forth above in connection with claim 80.

Furthermore, claim 81 recites that "the magnet is ring shaped with generally parallel side faces". The magnet 6 of Rossetti '892 is clearly not ring shaped, such that no combination of Russell '524 and Rossetti '892 could anticipate claim 81.

Furthermore, claim 82 recites that "the rod is made of a polymer material molded at least partly around the magnet". As discussed above in connection with claim 80, the claimed magnet is part of the rod that is movably mounted in the solenoid housing. In contrast, the magnet 6 of Rossetti '892 is stationary, and is clearly not part of the plunger 13. Furthermore, Rossetti '892 states that "the plunger 13 is made of a ferromagnetic material" (column 2, lines 55-56), and in no way suggests that the plunger 13 is "made of a polymer material" as recited in claim 82. Applicants again point out that the statement in the Office Action that "everything is a polymer" is clearly incorrect. Applicants also again reiterate that "words of the claim must be given their plain meaning". MPEP 2111.01(II). The plunger 13 of Rossetti '892 also is clearly not "molded at least partly around the magnet" as recited in claim 82, such that no combination of Rossetti '892 and Russell '524 can possibly anticipate claim 82 for this additional reason.

Furthermore, claim 83 recites that "the resilient material defines a melting temperature; and the polymer material has a melting temperature that is greater than the melting temperature of the resilient material." Thus, claim 83 recites a rod made of two distinct materials having two distinct melting temperatures. Applicants can find no teaching or suggestion in Rossetti '892 or any of the other cited references to provide such an arrangement. Specifically, the plunger 13 of Rossetti '892 appears to be a one-piece member made of a ferromagnetic

material. Accordingly, no combination of Rossetti '892 and Russell '524 can possibly anticipate claim 83.

Furthermore, claim 84 recites that "the polymer material extends along at least a portion of the side faces of the magnet to retain the magnet." As discussed above, the rod is made of a polymer material, and moves within the housing. Clearly, the plunger 13 of Rossetti '892 does not include polymer material that extends along side faces of a magnet to retain the magnet. Accordingly, no combination of Rossetti '892 and Russell '524 can possibly anticipate claim 84.

Independent claim 85 recites a shifter for vehicles with a powered pawl including a solenoid having a magnet biasing the solenoid to a rest position.

Applicants again reiterate that "Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, *arranged as in the claim.*" *Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co.*, 221 USPQ 481, 485 (Fed. Cir. 1984) (emphasis added). In contrast to claim 85, Russell '524 discloses a spring 98 that acts on links 58 and 60 to bias pawl 54 into the locking position. The spring 98 of Russell '524 is clearly not a magnet, such that Russell '524 cannot possibly anticipate claim 85. Applicants again reiterate that during examination "words of the claim must be given their plain meaning." MPEP 2111.01(II). To the extent the Examiner contends that one skilled in the art would construe the spring 98 of Russell '524 to be a magnet, Applicants respectfully request that the Examiner cite a reference supporting this contention.

Applicants further assert that the references themselves do not teach or suggest modification of Russell '524 to include a magnet as recited in claim 85. The solenoid 56 of Russell '524 appears to be an "off the shelf" component, and Applicants can find no teaching or suggestion in the references themselves to modify the solenoid 56 to include a magnet.

Applicants note that "[A] patentable invention may lie in the discovery of the source of a problem even though the remedy may be obvious once the source of the problem is identified. This is *part* of the 'subject matter as a whole' which should always be considered in determining obviousness of an invention under 35 U.S.C. §103." MPEP 2141.02(III), citing *In re Spornoble*, 160 USPQ 237 (CCPA 1969) (emphasis added). As described at

paragraph [0099] of the present application, use of magnet 268 provides numerous advantages over conventional solenoids utilizing a return spring. Applicants respectfully assert that neither Russell '524 nor any of the other cited references even recognize the problems associated with springs as taught by Russell '524, and this is further evidence that one skilled in the art would not be expected to modify Russell '524 by elimination of the spring 98.

Claims 86-89 depend from claim 85, and are therefore believed to be allowable for those reasons set forth above in connection with claim 85.

Furthermore, claim 86 recites "a spring biasing the output member to the rest position". Thus, claim 86 recites a solenoid having both a magnet and a spring, both of which bias the output member of the solenoid to the rest position. Applicants respectfully assert that neither Russell '524 nor any of the other cited references disclose or suggest such an arrangement. Russell '524 only teaches a spring 98, and the cited references do not in any way teach or suggest both a magnet and a spring biasing a solenoid to a rest position as recited in claim 86.

Independent claim 90 recites a shifter including a powered pawl having a,
linearly movably output member that shifts along an axis and an
engagement member resiliently coupled to the output member
such that the engagement member engages the shift gate and the
stop surface upon application of a force to the shift member when
the pawl is in the engaged position to thereby transfer forces into
the base.

As shown in Fig. 5 and as described at paragraphs [0056] and [0057] of the present application, the shifter of the present invention may include a pawl 15A that is resiliently coupled to a pin 41 of a solenoid 12. When an external force is applied to a shift lever 4, the loads are transferred from the gate 10 of lever 4 into pawl 15A. Pawl 15A then contacts sidewalls 47A of opening 46A, such that the force is transmitted into the base 2. Resilient pad 43 provides for movement of pawl 15A relative to pin 41, such that the slight movement of pawl 15A within opening 46A does not transmit significant forces into pin 41. In this way, the solenoid 12 is protected from potential damage that could otherwise occur if pawl 15A were rigidly connected to pin 41 of solenoid. Applicants respectfully assert that Russell '524 does not disclose or suggest any such arrangement when the words of claim 90 are given their plain meaning as required by MPEP 2111.01(II). Applicants again note that "A functional limitation

must be evaluated and considered, just like any other limitation of the claim, for what it fairly conveys to a person of ordinary skill in the pertinent art in the context in which it is used." MPEP 2173.05(g). Applicants respectfully request that the Examiner consider the invention of claim 90 as a whole, including all functional limitations. See also MPEP 2141.02(I). ("The claimed invention as a whole must be considered").

Claims 91-94 depend from claim 90, and are therefore believed to be allowable for those reasons set forth above in connection with claim 90.

Independent claim 110 has been amended to recite a first battery forming a main vehicle electric power supply and a second battery forming a backup electric power supply. The backup electric power supply provides electric power in the event the main vehicle electric power supply fails. In contrast, Russell '524 teaches a battery system 104 (Fig. 8) and an alternator system 106. Accordingly, Russell '524 does not disclose or suggest first and second batteries as recited in claim 110.

Claims 111-119 depend from claim 110, and are therefore believed to be allowable for those reasons set forth above in connection with claim 110.

Independent claim 120 recites a shifter including a powered pawl and a controller operably coupled to the powered pawl. The controller is configured to control the powered pawl based, at least in part, upon a signal received by a component of a keyless ignition system. This aspect of the present invention is discussed at paragraph [0082] of the present application and shown in Fig. 2. Although keyless ignition systems are known, the cited references do not disclose or suggest use of a keyless ignition system to control a powered pawl as recited in claim 120. Specifically, Applicants have reviewed Russell '524, and can find no teaching or suggestion of a controller that utilizes a signal received by a component of a keyless ignition system as recited in claim 120. Applicants reiterate that "Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, *arranged as in the claim.*" *Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co.*, 221 USPQ 481, 485 (Fed. Cir. 1984) (emphasis added).

Claims 121-124 depend from claim 120, and are therefore believed to be allowable for those reasons set forth above in connection with claim 120.

Independent claim 139 recites a shifter including a powered pawl and a controller that is configured to selectively control the position of the movable pawl member and selectively shift the pawl member to first, second, and third positions. As shown in Fig. 10 of the present application and described at paragraph [0062], one aspect of the present invention is a pawl that can be moved to three or more distinct positions to provide for control of a shift lever. Applicants have reviewed Russell '524, and can find no disclosure or suggestion of a three position pawl member as recited in claim 139. Specifically, the pawl 54 of Russell '524 is in an extended position when solenoid 56 is activated, and pin 90 retracts from the extended position to the retracted position when solenoid 56 is inactivated. Spring member 98 biases pawl 54 into the locking position. Thus, Russell '524 only discloses a two-position pawl. Applicants further assert that the detent plate 34 and pawl 54 of Russell '524 are configured to operate with pawl member 54 in one of only two positions, and there would be no reason to provide a three-position pawl.

Claims 140-148 depend from claim 139, and are therefore believed to be allowable for those reasons set forth above in connection with claim 139.

Independent claim 150 recites a shifter including a powered pawl, a controller, and a portable device generating a security signal. The controller controls the powered pawl based, at least in part, upon the security signal from the portable device. Applicants again reiterate that "Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, *arranged as in the claim.*" *Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co.*, 221 USPQ 481, 485 (Fed. Cir. 1984) (emphasis added). Applicants have reviewed Russell '524, and can find no disclosure of "a portable device generating a security signal" as recited in claim 150. Russell '524 also does not disclose a controller that "controls the powered pawl based, at least in part, upon the security signal from the portable device." as recited in claim 150. Accordingly, Russell '524 cannot anticipate claim 150.

Claims 151-153 depend from claim 150, and are therefore believed to be allowable for those reasons set forth above in connection with claim 150.

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Applicants have made a concerted effort to place the present application in condition for allowance, and a notice to this effect is earnestly solicited. In the event there are any remaining informalities, the courtesy of a telephone call to the undersigned attorney would be appreciated.

Respectfully submitted,

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Date

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